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7		RE THE
8	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS	
9	STATE OF C	CALIFORNIA
10	In the Matter of the Accusation Against:	Case No. 4184
11	NAZELLI HEROIAN	ACCUSATION
12	1818 N. Kenneth Rd. Burbank, CA 91504	
13	Pharmacy Technician Registration No. TCH	
14	68388	
15 16	Respondent.	
17		
18	Complainant alleges:	
19	PARTIES	
20	1. Virginia Herold (Complainant) brings this First Amended Accusation solely in	
21	her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer	
22	Affairs.	. D. 1 (D1 (D 1) 1 D1
23	2. On or about April 17, 2006, the Board of Pharmacy (Board) issued Pharmacy	
24	Technician Registration No. TCH 68388 to Nazelli Heroian (Respondent). The Pharmacy  Technician Registration was in full force and effect at all times relevant to the charges brought	
25	herein and will expire on October 31, 2011, unless renewed.	
26	///	
27	///	
28		

#### **JURISDICTION**

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

#### STATUTORY PROVISIONS

- 4. Section 118, subdivision (b), of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
  - 5. Section 4059 of the Code states, in pertinent part:
- "(a) A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any dangerous device, except upon prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.
- 6. Section 4300 of the Code provides, in pertinent part, that every license issued by the Board is subject to discipline including suspension or revocation.
  - 7. Section 4301 of the Code states, in pertinent part:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

"(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the Board."

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#### **DANGEROUS DRUGS**

- 8. Atripla is a brand name for Emtricitabine and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022. Atripla is used in the treatment for persons with HIV.
- 9. Truvada is a trade name for Emtricitabine and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022. Truvada is used in the treatment for persons with HIV.
- 10. Vireada is a trade name for Tenofovir and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022. Vireada is used in the treatment for persons with HIV.
- 11. Sustiva is a trade name for Efavirenz and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022. Sustiva is used in the treatment for persons with HIV.

#### **COST RECOVERY**

12. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

#### **BACKGROUND FACTS**

- 13. Respondent worked as a Staff Pharmacy Technician at USC Medical Plaza
  Pharmacy located in Los Angeles, CA. On or about October 13, 2010, Respondent admitted that
  she stole drugs from the pharmacy and sold them to a third party. The drugs include the
  following;
  - a). Atripla (2 bottles) cost- \$2,956.68;
  - b). Truvada (2 bottles) cost-\$1,928.18;
  - c). Viread (2 bottles) cost-\$622.38;
  - d). Sustiva (2 bottles) cost-\$514.00; and
  - e). Total cost to the pharmacy-\$6,643.87.

1	FIRST CAUSE FOR DISCIPLINE		
2	(Furnishing Drugs)		
3	14. Respondent is subject to disciplinary action under Code sections 4059, as a		
4	result of Respondent furnishing drugs to a third party. Complainant refers to and incorporates all		
5	the allegations in paragraph 13 as though set forth fully.		
6	SECOND CAUSE FOR DISCIPLINE		
7	(Dishonesty)		
8	15. Respondent is subject to disciplinary action under Code section 4301,		
9	subdivision (f), as a result of Respondent's dishonesty. Complainant now refers to and		
0	incorporates all the allegations in paragraph 13 as though set forth fully.		
1	THIRD CAUSE FOR DISCIPLINE		
12	(Subverting an Investigation)		
13	16. Respondent is subject to disciplinary action under Code section 4301,		
۱4	subdivision (q), as a result of Respondent failing to cooperate with the Board's investigation of		
15	the instant allegations when she failed to respond to the Board's letter.		
16	<u>PRAYER</u>		
۱7	WHEREFORE, Complainant requests that a hearing be held on the matters herein		
18	alleged, and that following the hearing, the Board issue a decision:		
19	1. Revoking or suspending Pharmacy Technician Registration No. TCH 68388		
20	issued to Respondent;		
21	. 2. Ordering Respondent to pay the Board the reasonable costs of the investigation		
22	and enforcement of this case, pursuant to Code section 125.3; and		
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3. Taking such other and further action as is deemed necessary and proper. DATED: \_ VIRGINIA HEROLD Executive Officer Board of Pharmacy
Department of Consumer Affairs
State of California Complainant LA2007601286